

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2005/002557

International filing date (day/month/year)
10.03.2005

Priority date (day/month/year)
22.03.2004

International Patent Classification (IPC) or both national classification and IPC
C12N9/04, C12N15/31

Applicant
DEGUSSA AG

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2005/002557

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☒ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☒ in written format
☒ in computer readable form
 - c. time of filing/furnishing:
☒ contained in the international application as filed.
☒ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-24, 29 (all partially), 25-28 (complete)

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1 are so unclear that no meaningful opinion could be formed (*specify*):
see separate sheet
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 1-24, 29 (all partially), 25-28 (complete)
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
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Box No. IV Lack of unity of invention

1. ☐ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ not paid additional fees.
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-24, 29 (partially)

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, Inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-24, 29
Inventive step (IS)	Yes: Claims	
	No: Claims	1-24, 29
Industrial applicability (IA)	Yes: Claims	1-24, 29
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

10/593119

IAP9/Rec'd PCT/PTO 18 SEP 2006

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

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Ad item III to V and VII:

With regard to the problems which arose due to the illegibility of Claim 1, see the comments in the search report.

As can be further derived from the search report, the search had, therefore, to be limited to Claims 2 to 24 insofar as they relate to SEQ ID Nos: 1 to 5 (and the corresponding DNA sequences).

The dehydrogenases of SEQ ID Nos: 1 to 5 are 98% or more identical to the sequences disclosed in D1 to D4 (WO 03/091423 A (DEGUSSA AG; HUMMEL, WERNER; ABOKITSE, KOFI; GROEGER, HARALD) 6 November 2003 (2003-11-06); EP-A-1 382 683 (SUMITOMO CHEMICAL COMPANY, LIMITED) 21 January 2004 (2004-01-21); EP-A-1 213 354 (SUMITOMO CHEMICAL COMPANY, LIMITED) 12 June 2002 (2002-06-12); WANG J-C ET AL: "Cloning, sequence analysis, and expression in Escherichia coli of the gene encoding phenylacetaldehyde reductase from styrene-assimilating Corynebacterium sp. strain ST-10" APPLIED MICROBIOLOGY AND BIOTECHNOLOGY, SPRINGER VERLAG, BERLIN, DE, vol. 52, no. 3, 1999, pages 386-392, XP002221908 ISSN: 0175-7598).

Therefore, none of the products claimed is novel and none of the method claims which relate to the obvious use of the known products fulfil the requirements of Articles 33.2 and/or 33.3 PCT.